REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
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PEOPLE OF THE PHILIPPINES, Petitioner,	**CTA EB CRIM. No. 045** (CTA Crim. Case No. O-104)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** and **MANAHAN,** *JJ.*
ROBERT SIA AND JOHN KENNETH L. OCAMPO, Respondents.	***Promulgated:*** MAR 13 2019 4:20 p.m.

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RESOLUTION

UY, *J.*:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION ON THE DECISION dated DECEMBER 12, 2018"**[1] filed on January 4, 2019, with respondent's **"COMMENT/OPPOSITION (TO PETITIONER'S MOTION FOR RECONSIDERATION ON THE DECISION DATED DECEMBER 12, 2018)"**[2] filed on February 8, 2019. In the said Motion, petitioner prays for the reconsideration of the civil aspect of the Court's Decision dated December 12, 2018, the dispositive portion of which reads:

> "**WHEREFORE,** all the foregoing considered, the instant *Petition for Review* is **DENIED** for lack of merit. The assailed Decision and Resolution are hereby

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[1] Docket, pp. 180 to 186.
[2] Docket, pp. 193 to 199.

AFFIRMED.

SO ORDERED."

In support of its Motion, petitioner argues that:

1. The BIR's right to collect is based on a valid assessment, which is final, executory, and demandable, that can no longer be disturbed.

2. Despite the service of the FAN and the corresponding Formal Letter of Demand with Details of Discrepancies, the subject taxpayer did not file any administrative protest as prescribed under Section 228 of the NIRC of 1997, as amended. Consequently, the tax liabilities of Roxy have long been overdue and delinquent and therefore became incontrovertible.

In their Comment/Opposition, respondents counter that:

1. The arguments raised in the Motion for Reconsideration are mere reproductions of the arguments in the Petition for Review dated November 22, 2017.

2. There was no valid assessment that could be the basis of their civil liability, as a void assessment bears no fruit.

3. The sending of a PAN, FAN, and FLD to a taxpayer to inform him of the assessment made is part of the due process requirement in the issuance of a Deficiency Tax Assessment, the absence of which renders nugatory, any assessment made by the tax authorities.

4. As proven during the course of trial, the letters and notices were sent by the petitioner to the old address of Roxy, despite being duly notified of its transfer and new address, making it impossible for Roxy or its duly authorized officers to have knowledge of such letters or notices.

5. The right of the government to collect taxes has already prescribed. Since the assessment for taxable year 1998 was declared void for lack of notice and lack of proper service, it is as if no assessment was issued within the period of limitation for assessment and collection of internal revenue taxes.

THE COURT *EN BANC'S* RULING

Petitioner's Motion lacks merit.

After a careful examination and consideration of the petitioner's Motion for Reconsideration, it is noted that the arguments raised in the said Motion are mere reiterations of matters which have already been considered, weighed and resolved in the assailed Decision. Thus, We shall not belabor, in this Resolution, to repeat the disquisitions made therein.

WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice